

**Virginia Regulations for Solid Waste Management Regulations**  
**9VAC20-80-10 *et seq.* – Amendment 7**  
**Technical Advisory Committee Meeting August 25, 2008**

F. Scott Reed—Dominion Virginia Power

Bob Dick—Virginia Waste Industries Association (VWIA) and private consultants

Atman Fioretti—Sierra Club, Virginia Chapter

Rick Guidry—King George County Landfill, Inc.

Mike Thomas—King George County Landfill, Inc.

Jerry Martin—Augusta County Service Authority

Jimmy Sisson—Virginia Recycling Markets Development Council

Fouad Arbid—Solid Waste Association of North America

Steve Yob—Solid Waste Association of North America

Joe Levine—Southwest Virginia Solid Waste Management Association

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**(Others in attendance):** (1) Leslie Beckwith and Debbie Mille -facilitators; other staff members that were present to answer questions raised by the TAC: Jason E. Williams, and Geoff Christe, and Charlie Swanson (2) names of public attendees: Jenny Johnson (Joyce Engineering), Jeff Crate (Draper Aden Associates), Scott Whitehurst, (Southeastern Public Service Authority), Mike Williams (Golder Associates), Mike Lawless (Draper Aden Associates) and Tim Torres (Republic Waste Services).

Leslie Beckwith began the meeting by reminding the TAC of the two meetings scheduled for September 29 and 30. There was then a quick discussion of the Technical Review Committee – CCB study group (TRC). The TAC received the draft meeting notes. The TRC recommended that the CCB regulation be kept as a stand alone regulation, but it is up to this TAC to decide. Karen Sismour explained that there is a lot of concern about this regulation. One option is to leave the regulation separate. Another option is that while Amendment 7 is open, this TAC can try to address the concerns in a more timely manner. The Department would like to look at the TRC recommendations and come up with some language to see whether or not the CCB regulation can be included in Amendment 7. No decision was made at this meeting.

The TAC discussed what is currently going on with the CCB regulations. Debbie Miller gave a short synopsis of the concerns with the CCB regulations. Battlefield Golf Course located in Chesapeake, Virginia was constructed with 1.5 million tons of fly ash amended with cement binder. On the edge of the golf course are houses on drinking water wells. Testing of the wells showed high levels of boron. Additional sampling had hits on heavy metals - arsenic, lead, and manganese. The data has not been validated. Chesapeake City has put information out on its web site. The EPA will start this week on a site assessment. Giles County is building an industrial park using fly ash for fill. The project applied for a variance for a setback, which requires public notice. The public got involved and the issue became controversial because of the location in a 100 year flood plane next to the New River. The CCB regulations address other issues other than land use and development. Fly ash is also used in manufacturing products; it is given an exemption under the Solid Waste Management Regulations. No permit and no monitoring is required; sites provide certification similar to the permit-by-rule process. The TAC needs to be prepared to go both ways. If the CCB regulations are to be added, it is already included in Part IV. The TAC may receive the proposed language via e-mail before the next meeting.

The TAC received language for new boundary definitions prior to this meeting. No comments were received. It was suggested that the definition for “property boundary” be revised to avoid issues with multi parcel properties. DEQ does not require consolidation of the parcels. If the parcels are not consolidated in a permit it can cause problems with setbacks requirements on the local government level. After closure of a landfill a note is recorded in the deed and consolidation of the parcels means only one deed versus several parcels and missing one. The definition of property boundary must take into consideration the term “unit.” It cannot be just a word swap. The DEQ staff, specifically ground water monitoring, not require probes in “inter’ or “intra” between the units in a facility. If the disposal boundary is defined, then it takes away separate monitoring requirements for separate units, but for the disposal boundary approved in the Part A. Landfills that piggyback on HB1205 landfills are considered on a case by case basis. DEQ has 5 sites that have physical separation from Subtitle D site so they have two separate systems. One will be an assessment and/or corrective action and one will remain in detection. If you have a perimeter system around 2 physical separate entities, then you need a system that network that divides into 2 separate phases of monitoring. Jason E. Williams will work on wording. It was suggested that the definition of facility boundary, 2<sup>nd</sup> line 2<sup>nd</sup> sentence, to change “included” to “encompass” and strike the word “boundary” from “gas monitoring boundary probes.” Also in the definition for facility boundary, disposal boundary, and lateral expansion consider what happens if the facility has never had a Part A. Jason E. Williams will look at the number of sites and options for addressing these sites. There was brief discussion on terms used in Subtitle D, 258, and the Virginia Regulations. Jason Williams pointed out that the same federal or state term does not have to be used in the regulations as long as the requirements of the law, federal or state, are achieved.

Next the group discussed placement of monitoring wells at the disposal boundary and the number of feet between monitoring wells. It was pointed out that Subtitle D language allows for the placement of wells as close as practical. A site by site basis is taken into

account, but cannot go past 500 feet. DEQ staff will revise the definitions and send to the TAC for approval.

Section 160, Closure Requirements, were revised based on suggestions from the TAC. A suggestion was made to take out B 3 and B1 small b. After a short discussion the group consensus was to remove B3 and clarify what is meant by “an estimate of design capacity.” Suggested language “an estimate of the waste disposed on-site over the active life of the landfill.” The group also discussed final cover demonstrations, leachate, and surface runoff. Jason E. Williams will revise language regarding final cover, capping and surface runoff – split out (gas, leachate, ground water control) and make clear what is being controlled and what to eliminate.

The next topic of discussion was on alternate and default closure caps standards. The alternate is what is the standard. C1 and C2 spell out the requirements. Federal standards require the alternate extreme. DEQ staff will address.

Geoff Christe gave a short synopsis on the reorganization of Section 258. The section was formatted to increase readability for the nonscientist. In the front section tries to stay consistent with 258 federal language, but rearranged the order. Tried to address 2 issues that constantly keep coming up since the 2003 amendment – how the Department uses and looks at verification sampling and treat 3<sup>rd</sup> party data validation. These were added up front for clarification. The other major change is the problem of modified phase 1 sampling program and how it ties into phase 2 requirements on a voluntary basis. After internal discussion, the decision was made to get rid of the modified phase 1 program and rename what phase 1 is supposed to be. The reason this was done is because there is less than 2 dozen facilities state wide that ever looked at going into modified phase 1 program and some of these did not like being in the program. Some have voluntarily gone to phase 2. Phase 1 has been redefined by calling it the 1<sup>st</sup> determination; folks that manage the waste in the ground are more comfortable with actual benchmarks. Old files from the early 90’s show a lot of exceedences for TOC and TOX, with facilities claiming that they do not represent a ground water impact. Many of these today are in corrective action. Indicative parameters do not have the power to recognize a true impact. So the decision was made to drop and let folks go to 1<sup>st</sup> determination, let them do background comparisons, and if they do not see exceedence of certain classes of constituents then they can petition the director to drop those. We are trying to get those who would normally enter phase 1 to begin the 1<sup>st</sup> determination phases and only sample for specific metals and give them benchmark criteria. Duplications were taken out in the text on the modification of the ACL procedures; sections B and C were moved up front. Under reporting requirements, clarification of what we want to see in a semiannual report was added because the Department sees a great variety of content of what comes in on reports. The goal is to provide the minimum content needed and reduce costs. The bulk of what needs to be reviewed is in the annual report.

Next the group discussed the new reference for 500 feet of spacing - Section 250 A 3 f. Lateral spacing is not defined and the Subtitle D preamble provides for lateral spacing based on several site factors. By adding lateral spacing not to exceed 500 feet unless approved by the department, opens the discussion of where the wells need to be; some consultants disagree with spacing of the wells because there is no set number in the

regulations. This gives the regulations clarity, but not a mandate. Concern over the regionalization of the ground water program in the department and how it affects prior agreements was discussed. DEQ will address the issue with training and internal clarification. Regulations and guidance are issued at the same time so clarification can be established. Questions were raised concerning the effective date and how it applies to lined and unlined landfills. DEQ will clarify. If the ground water monitoring is already approved by the department, there is no reason to reopen. After concern was expressed over the length of time it would take to resolve ground water issues, the TAC decided to split into 2 groups. The ground water group will bring back recommendations to the TAC.

After the ground water group left, Jason E. Williams gave a brief overview of Part IV which addresses compost facilities, transfer stations, centralized treatment facilities, material recovery facilities, waste to energy, incineration facilities, surface impoundments and lagoons, waste piles, remediation waste management units, landfill mining, miscellaneous units and exempt facilities. The goal is to keep it similar to the landfill section. If siting requirements are all the same it applies to all and if a facility has a unique provision for an operation it is added in a different paragraph in the section.

The compost section has significant changes. To support the waste hierarchy, no full permits will be required for compost facilities; all will be permit-by-rules. The yard waste regulations will now be included in Category 1. The VA Code requires an exemption for yard waste. The new regulations split out the Category 1 waste and blend in vegetative waste without being more restrictive. The composting testing requirements are similar to the biosolid testing. The table of analysis in Section 340 A 2 b mirrors the testing for biosolids and federal standards. This will make testing easier and less costly. Biosolids will be managed under a Virginia Pollution Abatement (VPA) permit in the water division. Permits are issued by the Office of Land Applications. One TAC member expressed concern that there is some local opposition to composting and a cry for more testing; he suggested that DEQ talk with those who have reservations. However, these comments were focused on the composting of biosolids which will no longer be permitted under the solid waste program. DEQ is attempting to balance the cost of testing so that composting is economical and have testing standards that provide confidence in the operation. The TAC was reminded that biosolids are a separate regulation.

There has been a request for a new type of PBR facility called centralized waste treatment facilities where industrial sludges can be solidified to pass the paint filter test and make them acceptable for disposal at a landfill. For operations where the solidification takes place in a pit or tank connected to sewage collection system, a pre-treatment permit covers the activity. However, if the solidification takes place without a direct connection to a sewage collection system, the activity is considered treatment of solid waste and subject to the VSWMR. These operations have led to the request for the creation of this type of facility. The TAC requested, to prevent confusion, Section 310 C, Centralized Waste Treatment Facilities, should clarify that existing landfills that solidify sludge do not need a PBR for a centralized waste treatment facility.

Discussion began on the difference between a transfer station (TS) and a materials recovery facility (MRF). The group agreed that the definitions need to be examined and possibly revised. Some TAC members were concerned that some MRFs are disguised as TS. A TS cannot scavenge, and there is no minimum requirement for how much segregation of recyclables must occur at a MRF. Some feel that a MRF can operate as a TS, but a TS cannot operate as a MRF. The group also discussed the role of the solid waste management plan and local government approval affects TS and MRFs. Competition and economic benefits are also factors to be considered. A recommendation was made to remove the categories and blend into one category. Market conditions can then dictate if materials should be picked out and sold or sent to the landfill. Others felt there is a distinction between the facilities and to leave it as is. The group will get more information from constituents and discuss at the next meeting.

After lunch, the meeting for September 30 was rescheduled. The TAC will meet on September 22 and September 29 at the Piedmont Regional Office. It was announced that the ground water group would not finish today and will have another meeting. They will make a presentation to the TAC.

Next the TAC discussed the comments received regarding composting. Jason E. Williams gave a summary. Comments on testing requirements stated that the frequency in VA regulations is too stringent. That pathogen testing is expensive and recommended that there is no need to continue testing if it can be shown that the composting process works. That financial assurance needs to be brought in line with the associated risks. All of these comments are reflected in the changes made to the regulation. Changes include testing requirements – frequency reduced and pathogen testing requirements modified to add no testing requirements if process is verified; all composting facilities will be permit-by-rule; and no financial assurance for composting facilities that accept only Category 1 feedstock.

In Section 330 A 1 b, it was pointed out that “atmosphere” should be “US waters.” Also this section needs more clarity on disposal of liquids and issuing VPDES permits. Jason E. Williams will look into the issue to provide more clarity to owners.

There was a short discussion on closure and cost estimates for Part IV facilities. Jason E. Williams will look at the closure and FA issues.

The control program for unauthorized waste, Section 300 F, was discussed. There was discussion on rejecting loads. Topics included random inspection of loads, tracking, who is responsible if a load is rejected and sent back out onto the road, and who is liable if the unauthorized waste is found after the load is dumped. Section 300 F 2 is confusing and needs clarification. It was suggested to find a better word for “accept” in the 2<sup>nd</sup> sentence of F 2. Joe Levine will draft language for the TAC to review.

The TAC revisited the frequency of analysis for composting on p. 18. Do these regulations apply to bird kills? DEQ has emergency guidance in place. There is an exemption for mass mortality and the state veterinarian would take over.

The next question raised was did DEQ receive input from SPSA, Covanta, and Harrisonburg on siting and design for waste to energy facilities. DEQ did not solicit and did not receive information from these facilities. Fouad Arbid will get comments from SWANA members.

The TAC asked if it is possible to get a redline version of all of the changes made. Because the older version is being repealed comparison between the old and new regulations may not be feasible, but DEQ staff will try.

The remediation of old landfills from the 1950's era (RWMU) and acceptance into the voluntary remediation program. Jason E. Williams gave an example of a site that has been cleaned under the VRP program and is now suitable for development.

Other items briefly discussed were Section 395, Miscellaneous, is designed to be a catch all in case something new comes up; the CCB regulations if added to this regulation will be cut and pasted in the exemption section (also true for the vegetative yard waste regulations; and how the form YW-3 uses the text from the regulation.

Actions items for the next meeting are revise boundary definitions, clarify closure in section 160A; and DEQ response deadlines (look at what other states have in regulations, Bob Dick.) The meeting adjourned at 3 PM.